

Message Text

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ORIGIN SCI-06

INFO OCT-01 EA-11 ADP-00 L-03 CEQ-02 EPA-04 INT-08 AEC-11

COME-00 HUD-02 NSF-04 NSC-10 HEW-08 DOTE-00 EB-11

IO-12 FAA-00 DODE-00 SS-15 CIAE-00 INR-10 NSAE-00

RSC-01 COA-02 PM-09 H-02 PA-03 PRS-01 USIA-12 AGR-20

AID-20 CG-00 OMB-01 ACDA-19 FMC-04 /212 R

DRAFTED BY SCI/ EN: WCSALMON: KSV

05/18/73 X29278

APPROVED BY SCI/ EN: WCSALMON

EA/ J: RDANKERT (DRAFT)

L/ EN: MMATHESON (DRAFT)

CEQ: WHAYNE (DRAFT)

EPA: WMANSFIELD (DRAFT)

INTERIOR: HSHOOSHAN (DRAFT)

AEC: AFRIEDMAN (DRAFT)

COMMERCE: SGALLER (DRAFT)

HUD: DBARNES (DRAFT)

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO

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E. O. 11652: N/ A

TAGS: SENV, JA

SUBJ: U. S. PROPOSED DRAFT OF BILATERAL AGREEMENT ON
COOPERATION IN ENVIRONMENTAL PROTECTION

REF: TOKYO 3646; TOKYO 1768

1. SUMMARY: THE DRAFT TEXT OF THE SUBJECT AGREEMENT SET
FORTH BELOW HAS BEEN PREPARED BY THE DEPARTMENT AND
INTERESTED AGENCIES IN WASHINGTON AND TRANSMITTED WITH
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THE REQUEST THAT THE EMBASSY DELIVER A COPY TO APPROPRIATE
GOJ OFFICIALS FOR THEIR REVIEW AND COMMENT. WE HAVE
ENDEAVORED TO INCLUDE THE VARIETY OF COMMENTS WE HAVE
RECEIVED FROM THE POST IN THE REFTELS AND IN INFORMAL

CORRESPONDENCE. WE ARE MOST ANXIOUS TO LEARN OF GOJ VIEWS ON THE TEXT AND ARE WILLING TO CONSIDER CHANGES. WE LOOK FORWARD TO DEVELOPING AN AGREED TEXT BY CABLE THROUGH EMBASSY TOKYO (IF NECESSARY, WE WOULD BE AGREE-ABLE TO A FINAL WORKING MEETING IN TOKYO) AND SIGNATURE IN LATE JUNE OR EARLY JULY AT A PLACE AND BY SIGNATORIES TO BE AGREED DURING THE COURSE OF NEGOTIATION. AT THIS POINT, WE ARE AIMING FOR CABINET- LEVEL PLUS AGREED COORDINATOR SIGNATURE. GENERAL COMMENTS ON THE VARIOUS ARTICLES ARE INCLUDED AND FOLLOWED BY THE DRAFT TEXT. END SUMMARY.

2. THE SCOPE OF THE DRAFT IS LIMITED TO ENVIRONMENTAL PROTECTION AND IS NOT DESIGNED TO ENCOMPASS UJNR ACTIVITIES. WHILE THIS SEPARATION IS U. S. PREFERENCE, WE WOULD BE WILLING TO CONSIDER JOINING SCOPE OF TWO PROGRAMS IN ONE AGREEMENT IF THIS IS THE STRONG PREFERENCE OF GOJ. AIR AND WATER POLLUTION ARE INCLUDED UNDER THIS AGREEMENT, IT BEING EXPECTED THAT THE MANAGEMENT OF WATER QUANTITIES COULD BE INCLUDED UNDER THE PROSPECTIVE UJNR AGREEMENT. THE PREAMBULAR SECTION IS REASONABLY CONDENSED AND CONTAINS THOSE MAJOR POINTS WHICH HAVE BEEN EXPRESSED IN PREVIOUS DRAFTS. THIS DRAFT DOES NOT COPY THE U. S./ USSR AGREEMENT AS OUR COOPERATION WITH JAPAN IN THIS SUBJECT AREA IS THAT OF TWO HIGHLY INDUSTRIALIZED FREE MARKET COUNTRIES AND IS THEREFORE COOPERATION OF A DIFFERENT NATURE.

3. ARTICLE I, II, AND III STATE THE COOPERATION WOULD BE ON A BASIS OF EQUALITY, THAT A VARIETY OF TYPES OF ACTIVITIES ARE CONTEMPLATED AND THAT A NUMBER OF SUBJECT AREAS IN THE FIELD OF POLLUTION ABATEMENT ARE TO RECEIVE EARLY CONSIDERATION. IN FACT, COOPERATIVE WORK IN A NUMBER OF THESE AREAS IS NOW UNDERWAY. WE BELIEVE THAT APPROPRIATE COORDINATION OF ENVIRONMENTAL TOPICS AMONG THE SEVERAL BILATERAL PROGRAMS WILL BE MET BY REVIEWING THESE ACTIVITIES AT THE MINISTERIAL MEETINGS.
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4. ARTICLE IV IS DESIGNED TO RECORD THE INTENTIONS OF THE TWO GOVERNMENTS TO INCLUDE IN THEIR COOPERATION CERTAIN BEHAVIOR ON THEIR OWN PARTS RECOMMENDED IN THE OECD GUIDING PRINCIPLES CONCERNING INTERNATIONAL ECONOMIC ASPECTS OF ENVIRONMENTAL POLICIES. THE ARTICLE IS PHRASED IN SUCH A MANNER AS TO NOT OBLIGATE EITHER GOVERNMENT TO ANYTHING MORE THAN A BEST EFFORT TO IMPLEMENT THE PRINCIPLES OF THE OECD GUIDELINES.

5. ARTICLE V, REGARDING ADMINISTRATIVE ARRANGEMENTS, GIVES EACH SIDE ALMOST COMPLETE FLEXIBILITY ON HOW IT WILL ORGANIZE ITS PARTICIPATION UNDER THIS AGREEMENT. THE ONE STIPULATION IS THAT A COORDINATING POINT BE

IDENTIFIED; THIS COULD BE AN INDIVIDUAL OR AN OFFICE WITHIN AN AGENCY. IT IS NOT A U. S. DESIRE TO ESTABLISH COMMITTEES ON BOTH SIDES; HOWEVER, ARTICLE V PERMITS JAPAN TO ESTABLISH SUCH A COMMITTEE. WHEN MEETINGS ARE HELD, WHERE NORMALLY APPROXIMATELY EQUAL NUMBERS WOULD OFFICIALLY PARTICIPATE ON EACH SIDE, THE U. S. PARTICIPANTS COULD BE CONSIDERED FOR THE PURPOSE OF THAT MEETING TO CONSTITUTE THE U. S. SIDE OF A JOINT GROUP IF A COMMITTEE STRUCTURE IS THAT NECESSARY FOR THE JAPANESE SIDE. THE LAST SENTENCE OF ARTICLE V IS INTENDED TO NOTE THAT EACH SIDE HAS THE OBLIGATION TO COORDINATE ITS ENVIRONMENTAL COOPERATIVE EFFORTS WITH OTHER ONGOING BILATERAL PROGRAMS

SUCH AS THE UJNR, THE SCIENCE AND THE MEDICAL PROGRAMS.

6. ARTICLE VI INDICATES TO OTHERS THAT WE INTEND TO BE OPEN WITH OUR WORK AT SUCH TIME AS BOTH GOVERNMENTS AGREE TO THE SHARING OF INFORMATION: OTHER GOVERNMENTS AND/ OR INTERGOVERNMENTAL ORGANIZATIONS COULD BE INCLUDED IN SPECIFIC ACTIVITIES BY MUTUAL AGREEMENT. THE REMAINING ARTICLES ARE REASONABLY ROUTINE.

7. APPRECIATE EMBASSY AND GOJ COMMENTS BY CABLE ON THIS MATTER AS THEY DEVELOP.

8. BEGIN TEXT: " AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN ON UNCLASSIFIED

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COOPERATION IN ENVIRONMENTAL PROTECTION

9. THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN,

10. BELIEVING THAT:

- THE NATIONAL ENVIRONMENT OF EACH COUNTRY AS WELL AS THE GLOBAL ENVIRONMENT MUST BE PROTECTED FOR THE HEALTH AND WELL- BEING OF PRESENT AND FUTURE GENERATIONS;

- EFFICIENT INDUSTRIALIZATION AND HEALTHFUL URBANIZATION REQUIRE EFFECTIVE POLLUTION ABATEMENT AND CONTROL AND ENVIRONMENTAL CONSERVATION POLICIES AND PRACTICES;

- COOPERATION BETWEEN THE TWO GOVERNMENTS IS OF MUTUAL ADVANTAGE IN COPING WITH SIMILAR PROBLEMS IN EACH COUNTRY, IN DEVELOPING AND APPLYING NEW TECHNOLOGIES AND IS ESSENTIAL IN MEETING EACH GOVERNMENT' S RESPONSIBILITIES FOR THE MAINTENANCE OF THE GLOBAL ENVIRONMENT.

11. RECOGNIZING THE SIGNIFICANT MUTUAL BENEFIT BEING DERIVED BY BOTH GOVERNMENTS FROM ONGOING COOPERATION IN

VARIOUS FIELDS WHICH INCLUDE CERTAIN ACTIVITIES CONCERNED WITH ENVIRONMENTAL MATTERS, AND DESIRING TO DEMONSTRATE THE INCREASE IN IMPORTANCE ATTACHED BY BOTH GOVERNMENTS TO COOPERATION IN ENVIRONMENTAL PROTECTION;

12. AGREE AS FOLLOWS:

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13. ARTICLE I - THE GOVERNMENTS THROUGH THEIR AGENCIES WILL MAINTAIN AND ENHANCE BILATERAL COOPERATION IN THE FIELD OF ENVIRONMENTAL PROTECTION ON THE BASIS OF EQUALITY, RECIPROCITY AND MUTUAL BENEFIT.

14. ARTICLE II - COOPERATION WILL BE UNDERTAKEN AS MUTUALLY AGREED AND MAY INCLUDE:

(A) MINISTERIAL- LEVEL MEETINGS TO DEAL WITH MAJOR ENVIRONMENTAL POLICY ISSUES AND TO REVIEW ACTIVITIES
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AND ACCOMPLISHMENTS UNDER THIS AGREEMENT;

(B) MEETINGS OF VARIOUS FORUMS, PARTICULARLY THOSE OF WORKING- LEVEL PROGRAM EXPERTS TO EXPLORE, DISCUSS AND EXCHANGE INFORMATION ON TECHNICAL AND OPERATIONAL ASPECTS OF SPECIFIC SUBJECTS AND TO IDENTIFY PROJECTS WHICH MAY BE USEFULLY UNDERTAKEN ON A COOPERATIVE BASIS;

(C) IMPLEMENTATION OF AGREED COOPERATIVE PROJECTS;

(D) EXCHANGE OF INFORMATION AND DATA ON RESEARCH AND DEVELOPMENT ACTIVITIES, POLICIES, PRACTICES, LEGISLATION AND REGULATIONS, AND ANALYSIS OF OPERATING PROGRAMS;

(E) VISITS BY SCIENTISTS, TECHNICIANS OR ADMINISTRATORS ON SPECIFIC OR GENERAL SUBJECTS; AND

(F) COORDINATION OF SPECIFIC RESEARCH ACTIVITIES.

15. ARTICLE III - COOPERATION MAY BE UNDERTAKEN IN MUTUALLY AGREED AREAS PERTAINING TO ENVIRONMENTAL PROTECTION AND ENHANCEMENT, SUCH AS:

(A) POLLUTION ABATEMENT AND CONTROL.

POLLUTION, INCLUDING MUNICIPAL AND INDUSTRIAL WASTE WATER TREATMENT, MOBILE AND STATIONARY SOURCES OF AIR POLLUTION; SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY; CONTROL AND DISPOSAL OF TOXIC OR RADIOACTIVE SUBSTANCES; MONITORING OF ENVIRONMENTAL POLLUTANTS; MARINE POLLUTION; AGRICULTURAL RUNOFF AND PESTICIDES CONTROL; HEALTH, BIOLOGICAL AND GENETIC EFFECTS OF ENVIRONMENTAL DEGRADATION; AND DEVELOPMENT OF LOW POLLUTION POWER SYSTEMS.

(B) OTHER AREAS OF ENVIRONMENTAL PROTECTION AND
ENHANCEMENT AS AGREED.

16. ARTICLE IV - DURING THE PERIOD IN WHICH THIS
AGREEMENT IS IN FORCE, BOTH GOVERNMENTS WILL USE THEIR
BEST EFFORTS TO HARMONIZE TO THE MAXIMUM EXTENT FEASIBLE
THEIR ENVIRONMENTAL POLICIES AND PRACTICES. IN ADDITION,
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THEY WILL PROMOTE INTERNATIONAL HARMONIZATION OF EFFECTIVE
MEASURES TO PREVENT AND CONTROL ENVIRONMENTAL POLLUTION.
IN THESE EFFORTS, THEY WILL SUPPORT STEPS TO:

(A) ACHIEVE AGREED SCIENTIFIC CRITERIA, PARTICULARLY
HUMAN HEALTH EFFECTS CRITERIA;

(B) ACHIEVE AGREED ACCEPTABLE LEVELS OF ENVIRONMENTAL
QUALITY;

(C) DEVELOP AND DISSEMINATE INFORMATION ON BEST TECHNOLOGY
AVAILABLE TO ABATE POLLUTION; AND

(D) IMPROVE AND USE THE BEST TECHNOLOGY AVAILABLE FOR
CONTROLLING AND ABATING NEW SOURCES OF POLLUTION.

17. BOTH GOVERNMENTS WILL USE THEIR BEST EFFORTS TO
ENSURE THAT THE COST OF CARRYING OUT POLLUTION PREVENTION
AND CONTROL MEASURES WILL BE INCLUDED IN THE COST OF
GOODS AND SERVICES WHICH CAUSE POLLUTION IN PRODUCTION
OR CONSUMPTION, AND TO PREVENT ENVIRONMENTAL PROTECTIVE
MEASURES BEING USED AS NON- TARIFF BARRIERS TO TRADE.
WHERE TRADE DISTORTIONS RESULT FROM DIFFERENCES IN THE
ENVIRONMENTAL PRACTICES AND PROCEDURES OF THE TWO
COUNTRIES, THE GOVERNMENTS WILL CONSULT UPON REQUEST
WITH A VIEW TO MITIGATING SUCH DISTORTIONS.

18. ARTICLE V - EACH PARTY WILL NOTIFY THE OTHER OF ITS
POINT OF COORDINATION RESPONSIBLE FOR THE CONDUCT OF ITS
ACTIVITIES UNDER THIS AGREEMENT. EACH PARTY MAY ALSO
IDENTIFY SUCH ADMINISTRATIVE ARRANGEMENTS AS IT DEEMS
DESIRABLE TO PERMIT ITS MOST EFFECTIVE PARTICIPATION
IN THE VARIOUS COOPERATIVE ACTIVITIES UNDER THIS AGREE-
MENT. AS MUTUALLY AGREED, MEETINGS MAY BE HELD,
ALTERNATELY IN WASHINGTON AND TOKYO, TO REVIEW CURRENT
AND FUTURE ACTIVITIES UNDER THIS AGREEMENT. EACH PARTY
WILL ENSURE FOR ITS PART APPROPRIATE COORDINATION AMONG
ACTIVITIES UNDER THIS AGREEMENT WITH OTHER COOPERATIVE
PROGRAMS BETWEEN THE TWO GOVERNMENTS.

19. ARTICLE VI - RESULTS OF THIS COOPERATION WILL BE
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SHARED WITH OTHER GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS AS APPROPRIATE UPON MUTUAL AGREEMENT.

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20. ARTICLE VII - NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO PREJUDICE OTHER ARRANGEMENTS OR FUTURE ARRANGEMENTS FOR COOPERATION BETWEEN THE TWO GOVERNMENTS. ACTIVITIES UNDER THIS AGREEMENT SHALL BE SUBJECT TO THE AVAILABILITY OF APPROPRIATED FUNDS AND TO THE APPLICABLE LAWS AND REGULATIONS IN EACH COUNTRY.

21. ARTICLE VIII - THIS AGREEMENT SHALL ENTER INTO FORCE UPON SIGNATURE, SHALL REMAIN IN FORCE FOR FIVE YEARS AND MAY BE EXTENDED FOR FIVE- YEAR INTERVALS BY MUTUAL AGREEMENT. THE TERMINATION OF THIS AGREEMENT SHALL NOT AFFECT THE VALIDITY OF ANY ARRANGEMENTS MADE UNDER THIS AGREEMENT.

22. DONE ON , 1973 AT IN DUPLICATE IN THE ENGLISH AND JAPANESE LANGUAGES, BOTH BEING EQUALLY AUTHENTIC.

FOR THE GOVERNMENT OF THE FOR THE GOVERNMENT OF
UNITED STATES OF AMERICA JAPAN" RUSH

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Message Attributes

Automatic Decaptioning: X
Capture Date: 10 MAY 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 19 MAY 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE096565
Document Source: ADS
Document Unique ID: 00
Drafter: SCI/ EN: WCSALMON: KSV
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730560/abqcemof.tel
Line Count: 298
Locator: TEXT ON-LINE
Office: ORIGIN SCI
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: TOKYO 3646; TOKYO 1768
Review Action: RELEASED, APPROVED
Review Authority: boyleja
Review Comment: n/a
Review Content Flags:
Review Date: 30 OCT 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <30-Oct-2001 by daviscw>; APPROVED <28 FEB 2002 by boyleja>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> gwr 980226
Subject: U. S. PROPOSED DRAFT OF BILATERAL AGREEMENT ON COOPERATION IN ENVIRONMENTAL PROTECTION
TAGS: SENV, JA
To: TOKYO
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005